

Claimant originally sustained bilateral repetitive use upper extremity injuries in 1989 and 1990 while working for respondent. Claimant was assessed a 12 percent whole person impairment from this condition pursuant to the opinion of Dr. Ernest R. Schlachter who examined claimant in May 1993. Shortly thereafter claimant was laid off from respondent and received a work disability. In August 1996 claimant was offered and

accepted reemployment with respondent. Before becoming reemployed claimant returned to Dr. Harry A. Morris in an attempt to get her permanent repetitive use restrictions lifted. Dr. Morris refused to lift these restrictions as claimant was still experiencing ongoing symptomatology.

Claimant suffered injury to her right hand in September 1996, approximately one month after returning to work with respondent. When claimant filed her E-1 Application for Hearing, she listed an accident date of September 26, 1996, and described a crushed hand injury and additional injuries to her forearm, elbow, and shoulder.

This matter first went to preliminary hearing before Administrative Law Judge Jon L. Frobish on October 28, 1997. At that time the Administrative Law Judge found, based upon the medical reports of Dr. Bernard F. Hearon and Dr. Schlachter, that claimant had failed to sustain her burden of proving her requested medical treatment to the upper extremities was related to the injury of September 26, 1996. This matter was appealed to the Workers Compensation Appeals Board and the Order denying benefits was affirmed.

Claimant requested a second preliminary hearing which was held on December 11, 1997. At that hearing, claimant had admitted into the record a letter from Dr. Hearon dated November 10, 1997, wherein the doctor stated:

In response to your request for information on Carolyn Douglas, dated October 30, 1997, the following information is provided.

I believe this patient's right ulnar nerve entrapment at the elbow is unrelated to her right middle finger blunt trauma of September 12, 1996; however, I believe that her right ulnar nerve entrapment at the elbow is a work related problem. Furthermore, I believe that the repetitive nature of her work may be aggravating the problems with both upper extremities.

In this instance, claimant is alleging a single occurrence injury on September 26, 1996. Dr. Hearon's letter clearly states that claimant's ongoing upper extremity problems are not related to that incident. Claimant has filed no claim for a micro-trauma injury or series of injuries while working with respondent, since her return to work in September 1996. It is significant that claimant had preexisting upper extremity problems in 1993. Whether claimant has suffered a new series of accidents arising out of and in the course of her employment or whether claimant's preexisting condition has been in some way aggravated by a series of micro-traumas is not an issue which has been brought by claimant before the Appeals Board. The date of accident before the Appeals Board, *i.e.*, September 26, 1996, represents a single blunt trauma incident to claimant's right hand which, according to the medical reports, has no relationship to claimant's upper extremity symptomatology.

**WHEREFORE**, it is the finding, decision, and order of the Appeals Board that the

Order of Administrative Law Judge Jon L. Frobish dated December 12, 1997, should be, and is hereby, reversed as claimant has failed to prove by a preponderance of the credible evidence that her upper extremity symptomatology relates to a September 26, 1996, accident.

**IT IS SO ORDERED.**

Dated this \_\_\_\_ day of February 1998.

---

BOARD MEMBER

c: David M. Bryan, Wichita, KS  
Eric K. Kuhn, Wichita, KS  
Jon L. Frobish, Administrative Law Judge  
Philip S. Harness, Director